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LETTER DATED 3 SEPTEMBER 1996 FROM THE EXECUTIVE CHAIRMAN OF THE SPECIAL COMMISSION ESTABLISHED BY THE SECRETARY-GENERAL PURSUANT TO PARAGRAPH 9 (b) (i) OF SECURITY COUNCIL RESOLUTION 687 (1991) ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

I have the honour to refer to the statement by the President of the Security Council on the item entitled "The situation between Iraq and Kuwait", which was adopted unanimously by the Council and issued on 23 August 1996 (S/PRST/1996/36).

It will be recalled that the statement was issued prior to a visit to Baghdad that I was to undertake pursuant to a provision in the joint statement signed at Baghdad on 22 June 1996 (see S/1996/463, annex), for joint reviews by Iraq and the Special Commission every two months at the political level on issues and developments relating to the implementation of section C of resolution 687 (1991). The statement of 23 August 1996 requested that I should report to the Council on the results of my visit. That report is submitted herewith for circulation as a document of the Security Council (see annex).

(Signed) Rolf EKÉUS
Executive Chairman

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Annex

Report by the Executive Chairman of the Special Commission established by the Secretary-General pursuant to paragraph 9 (b) (i) of Security Council resolution 687 (1991), on his mission to Baghdad, 26-28 August 1996

I. INTRODUCTION

1. The Executive Chairman of the Special Commission arrived in Baghdad on 26 August 1996. He was accompanied by Messrs. John Scott and Nikita Smidovich, Ms. Rachel Davies and Ms. Olivia Platon of the Commission's Executive Office in New York. They were joined in Baghdad by Mr. Göran Wallén, Director of the Commission's Monitoring and Verification Centre, and Mr. Stuart Pinnock, Special Assistant to the Director.

II. MEETINGS

2. On the evening of 26 August, a plenary meeting was held at the Ministry for Foreign Affairs with a large delegation from Iraq, headed by the Deputy Prime Minister, Mr. Tariq Aziz. Among those accompanying him were Mr. Mohammed Saeed Al-Sahaf, Minister for Foreign Affairs, General Amer Rashid Al-Ubeidi, Minister of Oil, General Amer Al-Sa'adi, Senior Adviser in the Office of the President, Mr. Dayf Abdel Majid, Director of the Military Industrialization Corporation, Mr. Riyadh Al-Qaysi, Under-Secretary, Ministry for Foreign Affairs, Mr. Nizar Hamdoon, Permanent Representative of Iraq to the United Nations, Mr. Hossam Amin, Director of the National Monitoring Directorate and other members of the Ministry for Foreign Affairs and Iraq's experts in the missile, chemical and biological fields who are involved with the implementation by Iraq of section C of Security Council resolution 687 (1991) of 8 April 1991. The first plenary meeting lasted for over three hours. A second plenary meeting, of some three hours' duration, took place the next morning, 27 August, with a follow-up plenary in the evening of some two-and-a-half hours' duration. On 28 August, after a tête-à-tête meeting of more than an hour between the Deputy Prime Minister and the Executive Chairman, a brief round-up plenary session was held prior to the Executive Chairman's departure for Bahrain. The composition of the Iraqi delegation remained essentially the same throughout all four plenary meetings.

III. MANDATE

3. The Executive Chairman stated that the purpose of his visit derived from the statement of 23 August 1996 (S/PRST/1996/36) and the relevant provisions of the joint statement of 22 June 1996 (see S/1996/463, annex). The latter called for bimonthly meetings at the political level to address fundamental issues, review progress and direct any further effort necessary to achieve the objective of making it possible for the Commission to report as soon as possible to the Security Council that Iraq had met its obligations under section C of resolution 687 (1991) as stated in paragraph 22 of that resolution.

4. In his opening remarks the Chairman recalled the various elements contained in the statement of 23 August 1996 regarding the Council's full support for the Special Commission in the conduct of its inspections and the other tasks entrusted to it and the important role of inspections; the demand once again that its inspection teams be given immediate, unconditional and unrestricted access to any and all areas, facilities, equipment, records and means of transportation that the Commission's teams wished to inspect and to Iraqi officials whom the Commission wished to interview. He drew attention to the Council's grave concern at Iraq's failure to comply fully with Security Council resolution 1060 (1996) of 12 June and with other relevant resolutions and at its finding that Iraq's refusal, on repeated occasions, to grant access to sites and its attempts to impose conditions on the conduct of interviews by the Commission with Iraqi officials constituted gross violations of Iraq's obligations under resolutions 687 (1991), 707 (1991) of 15 August 1991 and 715 (1991) of 11 October 1991, as well as contradicting its commitments under the joint statement. The Deputy Prime Minister stated that Iraq was abiding and would continue to abide sincerely and efficiently by the agreements reached on 22 June 1996.

IV. TOPICS COVERED

5. In the course of the lengthy meetings, attention was devoted to the issue of site access; interview procedures; verification of Iraq's full, final and complete disclosures (FFCDs); concealment of proscribed items; security and safety of the Commission's personnel; the rights, privileges and immunities of the Commission and the International Atomic Energy Agency (IAEA); Iraq's obligations in relation to the conduct of ongoing monitoring and verification; and air operations. As a result of these discussions, some understandings were reached that could minimize difficulties in the future.

6. On the issue of access, the Iraqi side considered that the problems that had arisen over the previous few weeks were the results of confusion and misunderstandings. The conduct of inspections was discussed in great detail. The issue of the balance between the Commission's rights and Iraq's legitimate security concerns, as set out in the joint statement, was reviewed. The Chairman outlined some practical means to address a number of issues that had arisen during the review. In the outcome, Iraq reaffirmed its obligations to secure immediate, unconditional and unrestricted access to all sites designated for inspection.

7. Another major topic during the mission was the verification of Iraq's FFCDs as set out in the joint programme of action. At the request of Iraq, the Executive Chairman outlined in a preliminary manner some assessments of the FFCDs received from Iraq in June and July 1996. The Commission stated its intention to send three teams, one each in the biological, chemical and missile areas, to Baghdad in the course of September 1996 to pursue verification of the FFCDs.

8. The Commission's concerns, as set out in its April report (see S/1996/258 of 11 April 1996), that relatively minor, but highly significant, quantities of proscribed items remained unaccounted for, were discussed. Iraq stated that

such weapons and components that could not yet be accounted for were not of a size or character to constitute any threat to regional peace and security. The Commission could not accept this evaluation and pointed out its responsibilities under the Security Council resolutions to make a full accounting.

9. The Executive Chairman stressed the importance the Commission attached to interviews with those Iraqi officials involved in Iraq's proscribed programmes. This is particularly important when Iraq has not been able to provide sufficient documentation to support its declarations or made misleading statements in the past. There was considerable discussion of how such interviews should be conducted. The Commission proposed some concrete steps to facilitate the interview process. The results of this discussion are considered by the Commission as sufficient to allow the resumption of the FFCD verification process through interviews.

10. During the course of the plenary sessions and a private meeting with the Deputy Prime Minister, Mr. Tariq Aziz, the Executive Chairman outlined the Commission's concerns relating to the concealment of proscribed items in Iraq. The Chairman stressed that the issue remained a prime objective for the Commission's inspection because of Iraq's attempts to block or sidetrack the Commission's investigation of its concealment efforts. The Deputy Prime Minister made a formal statement on behalf of his Government to the effect that Iraq did not conceal proscribed weapons, components or documents related to them. He asked the Commission to refrain, at least for a certain period, from conducting further on-site inspections and interviews related to this subject. The Chairman stated that the Commission's activities to clarify the concealment efforts must continue as part of the verification of the FFCDs.

11. Iraq stated that it would not accept any new extension, or enlargement, in words or practice, of the rights and privileges of the Commission as defined in the relevant resolutions of the Security Council and instruments accepted by Iraq and practised by the Commission in the past. On several occasions during the meetings, the Iraqi side attempted to dictate how and to what extent the Commission should exercise its rights. The Commission stated that it had not extended its rights beyond what was defined in the relevant legal instruments and reminded Iraq of the detailed wording of the rights, privileges and immunities of the Special Commission and IAEA under Security Council resolutions 687 (1991), 707 (1991) and 715 (1991) and the Status Agreement of May 1991, including its rights of access and unrestricted freedom of movement throughout Iraq. The Chairman called on Iraq to respect fully the rights of the Commission and the decisions of the Council related to those rights.

12. The Chairman raised a number of recent serious incidents during which the safety and security of the Commission's personnel had been threatened. Iraq was reminded of its obligations to provide for the safety and security of the Special Commission's and IAEA personnel in Iraq.

13. The Government of Iraq and the Commission agreed on procedures that will permit a smooth transition from the use of the large German CH-53G helicopters employed to date by the Commission in Iraq to the smaller UH-1H helicopters now being provided to the Commission by the Government of Chile.

V. CONCLUSIONS

14. The visit was useful. The discussions contributed to the clarification of the respective positions and led to a better understanding of some of those positions and to a narrowing of certain differences.

15. Both sides reaffirmed their commitment to the joint statement and agreed to pursue the implementation of the joint programme of action of 22 June 1996. The Executive Chairman and the Deputy Prime Minister agreed to meet again in approximately two months as provided for in the joint statement of 22 June 1996.

16. The Commission intends to pursue vigorously its inspection programme, its verification activities of the FFCDs as outlined in the joint programme of action, including on-site inspections and the conduct of interviews, and to exercise fully its rights, privileges and immunities conferred by the Security Council's resolutions and the Status Agreement of May 1991 between the United Nations and Iraq.

17. The Executive Chairman very much hopes that the discussions just concluded in Baghdad will serve to avoid a repeat of incidents that have arisen through Iraq's actions in the last few months and that real progress can be made in the coming months towards the objectives laid down in the joint statement of 22 June 1996. This will require full and unreserved cooperation from the Government of Iraq and a genuine policy on its part to carry out its obligations under relevant Security Council resolutions.

18. Iraq's commitment to the joint statement of 22 June 1996 with its important undertakings to honour rights of immediate, unconditional and unrestricted access by inspection teams as required by the Council's resolutions, can only be assessed in the light of Iraq's future actions and the Commission's practical experience.

19. The Commission will continue to keep the Council informed of developments.